THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 18727 of 1999

DATED:19-08-2005

Between:

The Depot Manager,
A.P.S.R.T.C., Sathupalli Depot.

..... PETITIONER

AND

1 The Labour Court, Rep. by its Presiding Officer,
Warangal.
2 K.Devender,
A.P.S.R..T.C, Sathupalli Depot.

.....RESPONDENT(S)

THE HONOURABLE SRI JUSTICE C.V.RAMULU

W.P.NO. 18727 OF 1999

ORDER:

This writ petition is filed by Depot Manager, A.P.S.R.T.C., Sathupalli, (Management) being aggrieved by the Award made in M.P.No.35 of 1994 dated 11-3-1997 on the file of the Industrial Tribunal-cum-Labour Court at Warangal, wherein the petition filed by the respondent-workmen under Section 33-C (2) of the Industrial Disputes Act (for short 'the Act') was answered in his favour and directed the petitioner herein to pay an amount of Rs.63,569-40 ps towards difference of pay as entitled to by the workman.

According to the petitioner, the workman laid a claim in M.P.No. 35 of 1994 under Section 33-C (2) of the Act stating that though he was reinstated into service on 5-9-1989 in pursuance of the orders passed in I.D.No.53 of 1987, he was put on minimum time scale and not the time scale he is entitled for. The petitioner herein filed a detailed counter denying the allegations made by the workman. However, accepted that in view of non availability of service record, the pay of the workman was not fixed in the revised pay scales of 1985,1989 and 1993. Further they were seeking permission of the competent authority to open a duplicate service record and soon after receipt of the sanction of competent authority, pay will be fixed at appropriate stage in the revised pay scale of 1985, 1989 and 1993. The Labour Court, after a detailed consideration of the entire matter, came to the conclusion that the workman is entitled for a sum of Rs.63,569-40ps inclusive of the amount already paid towards the wages i.e. Rs.14,001/- and the respondent-workman is entitled for balance amount of Rs,.49,568-40ps. According to the learned counsel for the petitioner, the Labour Court has not appreciated the evidence properly, apart from the fact that the Labour Court ought to have waited for the records being prepared by the management before passing the said order.

A detailed counter affidavit has been filed by the respondent-workman denying the allegations made by the petitioner and further it is asserted that when his services were illegally terminated with effect from 4-2-1985, he approached the Labour Court and raised a dispute in I.D.No.53 of 1987 and the same was answered in his favour and by order dated 5-4-1987, the petitioner herein was directed to reinstate the workman into service as Cleaner with continuity of service but without any back wages. The said Award became final. Therefore, he is entitled for the salary to be fixed treating the continuity of service and also as per the revised pay scales from time to time, but the petitioner herein has not done so and he was put on

bare minimum time scale applicable to the cadre of Cleaner when he was reinstated into service with effect from 5-9-1989. Therefore, he has filed petition under Section 33-C (2) of the Act along with calculation memo. The petitioner-Corporation except stating that the records are not available, they have not denied the entitlement of the workman. Therefore, the Industrial Tribunal-cum-Labour Court has rightly come to the conclusion that the amount due and entitled to be paid to the respondent-workman. The order of the Labour Court does not suffer from any infirmities requiring inference by this court.

I have given my earnest consideration to the respective submissions made by learned counsel on either side and perused the material made available on record and the order passed in the impugned M.P.

The eligibility of the workman is not in dispute. It is also not in dispute that the workman's pay was not fixed as per the revised pay scales of 1985,1989 and 1993. Except saying that the respondent-workman is not entitled for the amounts claimed no calculation memo was filed by the petitioner-management. Under those circumstances, the Labour Court rightly held that after considering the calculation memo filed by the workman, he is entitled for an amount of Rs.49,568-40ps after deducting the amount of Rs.14,001/-which has been already paid to him. The management has not taken any steps or even they have not filed any calculation memo before this court to show how the workman is not entitled for the amounts as ordered by the Labour Court.

In view of the same, I am of the opinion that the order passed by the Labour Court does not call for interference of this court and the writ petition is devoid of merit and is liable to be dismissed.

The writ petition is accordingly dismissed. No order as to costs.

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C.V.RAMULU,J

19-08-2005

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